



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SITRICK, David H. )  
)  
For: IMAGE TRACKING AND )  
SUBSTITUTION SYSTEM AND )  
METHODOLOGY )  
)  
Serial Number: 09/723,169 )  
)  
Filed: November 27, 2000 )  
)  
Examiner: BECKER, Shawn M. )  
)  
Art Unit: 2173 )  
)  
Attorney Docket: STD 1684 CPA )

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MAY 20 2004

Technology Center 2100

DECLARATION OF DAVID H. SITIRCK UNDER 37 CFR 1.131

Dear Sir:

I, David H. Sitrick, hereby declare and say that:

- 1) I am an attorney at law and a member of the firm of Sitrick & Sitrick whose offices are located at 8340 N. Lincoln Avenue in Skokie, Illinois. I am registered to practice before the United States Patent & Trademark Office, having been awarded Reg. No. 29,349. I have power of attorney to prosecute the above application. I am also the sole inventor on the above-referenced patent application. This application was filed on November 27, 2000.
- 2) In an Office Action for the above application, dated January 15, 2004, the Examiner cited Cosatto et al. U.S. Patent No. 6,504,546 as a basis of rejection under 35 U.S.C. §102(e) and 35 U.S.C. §103(a). The Cosatto et al. patent has a priority filing date of February 8, 2000 and an issue date of January 7, 2003, and is thus not prior art, and the present Applicant can and hereby does swear back of the Cosatto et al. patent as a reference, by means of this Declaration filed pursuant to Rule 131 (37 CFR 1.131) and the MPEP.
- 3) The following facts establish conception of the invention prior to the effective date of the Cosatto et al. reference coupled with due diligence from prior to February 8,

2000 to the filing of Applicant's above-referenced application on November 27, 2000.

- 4) As the patent attorney who prepared this Application (Serial No. 09/723,169) from the beginning. From the time I began working on this Application, I had a reasonable backlog of cases which I prosecuted in chronological order. I worked diligently and continuously to reduce this invention to practice and to complete this Application from conception and completion of the first draft of the Invention Disclosure on January 7, 1998 continuously through the filing of this Application on November 27, 2000. From conception to filing, I generated twenty-seven [27] typed drafts of invention disclosure; including claims, detailed descriptions and specifications.
- 5) Attached hereto as Exhibit A is a printed copy of the contents of Applicant's computer file directory listing the names of the electronic files and their respective dates of modification. (2 pages)
- 6) Attached hereto as Exhibit B is a printed copy of the disclosure of a draft specification of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [Invention Discl, 1-7-98], and was last modified on Wed, Feb 4, 1998, 11:17 AM—as listed and highlighted in red and identified as Exhibit B on page 2 of Exhibit A. (5 pages)
- 7) Attached hereto as Exhibit C is a printed copy of the disclosure of a draft specification and claims of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [DHS Disclosure ideas (6/30/98)], and was last modified on Mon, Jul 6, 1998, 1:17 PM—as listed and highlighted in red and identified as Exhibit C on page 2 of Exhibit A. (4 pages)
- 8) Attached hereto as Exhibit D is a printed copy of the disclosure of draft claims of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [1684 claims.v5 7/13/98], and was last modified on Mon, Jul 13, 1998, 10:49 AM—as listed and highlighted in red and identified as Exhibit D on page 1 of Exhibit A. (15 pages)
- 9) Attached hereto as Exhibit E is a printed copy of the disclosure of a draft specification and claims of Applicant's application Serial No. 09/723,169; the

corresponding electronic file name is [DHS Disclosure ideas.3 10/16/98], and was last modified on Fri, Oct 16, 1998, 2:32 PM—as listed and highlighted in red and identified as Exhibit E on page 2 of Exhibit A. (6 pages)

- 10) Attached hereto as Exhibit F is a printed copy of the disclosure of the draft specification of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [1684 Draft Appl.v1 (12/23/98)], and was last modified on Thu, Dec 24, 1998, 1:18 AM—as listed and highlighted in red and identified as Exhibit F on page 1 of Exhibit A. (6 pages)
- 11) Attached hereto as Exhibit G is a printed copy of the disclosure of draft claims of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [1684DraftClaimv.0 (12/30/1998)], and was last modified on Wed, Dec 30, 1998, 1:51 PM—as listed and highlighted in red and identified as Exhibit G on page 2 of Exhibit A. (4 pages)
- 12) Attached hereto as Exhibit H is a printed copy of the disclosure of draft claims of Applicant's application Serial No. 09/723,169; the corresponding electronic file name is [1684 C-Claims.v1 (1/6/00)], and was last modified on Thu, Jan 6, 2000, 11:25 PM—as listed and highlighted in red and identified as Exhibit H on page 1 of Exhibit A. (3 pages)
- 13) By this Declaration, the rejection of above-referenced patent application, as based upon Cosatto et al. U.S. Patent No. 6,504,546, is hereby overcome in accordance with 37 CFR 1.131, by swearing back of the reference.



- 14) I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

David H. Sitrick  
Attorney for Applicant  
Registration No. 29,349

May 7, 2004

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